

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

DOROTHY OAKLEY,)	
)	
Plaintiff,)	
)	
v.)	CAUSE NO. 1:07-cv-0399-RLY-WTL
)	
MERCK & CO., INC.,)	
)	
Defendant)	
_____)	

**STIPULATION AND REQUEST TO STAY PROCEEDINGS PENDING
TRANSFER TO MULTIDISTRICT LITIGATION**

The undersigned parties respectfully file this Stipulation and Request to stay this action pending its transfer to the FOSAMAX® (“Fosamax”) multidistrict Litigation pending in the United States District Court for the Southern District of New York. In support of this request, the parties state as follows:

1. This products liability case involves claims related to the use of the prescription medication Fosamax. On August 16, 2006, the Judicial Panel on Multidistrict Litigation (“MDL Panel”) issued an order transferring 18 Fosamax products liability cases to the United States District Court for the Southern District of New York (Keenan, J.) for coordinated pretrial proceedings under 28 U.S.C. § 1407. *In re Fosamax Products Liability Litigation*, MDL No. 1789. As of this date, the MDL Panel has issued 17 Conditional Transfer Orders requiring the transfer of an additional 50 actions to MDL 1789, where a total of 131 cases are now pending, including both the transferred cases and cases filed directly in the transferee court.

2. Merck notified the MDL Panel of this action as a potential tag along action, pursuant to MDL Panel Rule 7.5(e). On April 13, 2007 the MDL Panel issued a Conditional Transfer Order under MDL Panel Rule 7.4, providing for the transfer of this case to the Fosamax MDL Proceedings. A copy of that order is attached hereto as Exhibit "A."

3. The Parties stipulate to, respectfully and ask the Court to approve, a stay of this case pending its transfer to the Fosmax MDL Proceedings. Pursuant to L.R. 5.11, counsel for plaintiffs, Timothy F. Devereaux, has authorized counsel for defendant to affix his electronic signature below and file this joint motion.

Respectfully submitted,

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Attorneys for Defendant Merck & Co., Inc.

SO ORDERED, this _____ day of _____, 2007.

United States District Judge